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& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: BENEDIKT T. HUBER et al.

Appln. No.: 09/931,145

Filed: August 15, 2001

For: EXPANDABLE INTELLIGENT
ELECTRONIC DEVICE

Examiner: Mary C. Baran

Art Unit: 2857

Attorney Docket No: 6270/66

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b) (original and 2 copies), Exhibits A-D
- ☒ Return Receipt Postcard

Fee calculation:

- ☒ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

- ☐ A check in the amount of \$_____ is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

Scott A. Timmerman
Scott A. Timmerman (Reg. No. 55,678)

May 12, 2005
Date

"Express Mail" mailing label number EV 327105855 US

Date of Deposit May 12, 2005



Our Case No. 6270/66
(PML Case No. 300066)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Benedikt T. Huber, et. al.)
) Examiner: Mary C. Baran
Serial No. 09/931,145)
) Group Art Unit No. 2857
Filing Date: August 15, 2001)
)
Title: EXPANDABLE INTELLIGENT)
ELECTRONIC DEVICE)
)
)
)
)

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(b)

Dear Sir:

U.S. Patent No. 6,871,150 was issued on March 22, 2005. Pursuant to 35 U.S.C. § 154(b) the United States Patent and Trademark Office has calculated a patent term adjustment of 475 days. A copy of the issue notification for U.S. patent number 6,871,150 is included herewith as Exhibit A.

Applicant's Attorney believes that the patent term adjustment should be 694 days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(d). Applicants previously submitted a request for reconsideration of the patent term adjustment on December 2, 2004, however, it was held in abeyance subject to an

Patent No. 6,871,150
Serial No. 09/931,145

Date Issued: March 22, 2005
Date Filed: August 15, 2001

issue date being set. The response from the United States Patent and Trademark Office is attached as Exhibit B. As noted in that response, the Office acknowledges receipt of the required fee of \$200.00 for an application for patent term adjustment. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for U.S. patent number 6,871,150 was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit C. Applicant's Attorney believes that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for U.S. patent number 6,871,150 as described in detail below. Pursuant to 37 C.F.R. §1.705(d), this request for reconsideration is being filed within two months of the issue date of the above-referenced patent. Note that U.S. patent number 6,871,150 is not subject to a terminal disclaimer. In addition, there were no circumstances during the prosecution of the application resulting in the patent that constitute a failure of the Applicant to engage in reasonable efforts to conclude processing or examination of the present application as set forth in 37 C.F.R. §1.704.

Period of adjustment for activities prior to mailing of Notice of Allowance

As detailed in the Patent Term Adjustment History that is attached as Exhibit C, the patent term adjustment indicated on the Notice of Allowance was 475 days.

Period of adjustment pursuant to 37 C.F.R. § 1.703

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on

Patent No. 6,871,150
Serial No. 09/931,145

Date Issued: March 22, 2005
Date Filed: August 15, 2001

which the application was filed pursuant to 35 U.S.C. § 111(a). The present application was filed on August 15, 2001 as evidenced by the official filing receipt attached as Exhibit D. The 3 year date determined pursuant to 37 C.F.R. § 1.703(b) is August 15, 2004. Pursuant to 37 C.F.R. § 1.703(b) the Applicant is entitled to a period of adjustment due to a delay in examination of this Application by U.S. Patent and Trademark Office that is equal to the number of days between August 15, 2004 and the issuance date of the patent. The issue date of U.S. Patent Number 6,871,150 is March 22, 2005 as evidenced by the copy of the Issue Notification included herewith as Exhibit A. Therefore, the present application exceeds the 3 year date by 219 days.

The delay for this Application by the U.S. Patent and Trademark office is identified in 37 C.F.R. § 1.703(a)(1). The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day (“the 14 month date”) after that date that is fourteen months after the date on which the application was filed pursuant to 35 U.S.C. § 111(a), or fulfilled the requirements pursuant to 35 U.S.C. § 371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. § 132 or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first. The present application was filed on August 15, 2001. The 14 month date specified in 37 C.F.R. § 1.703(a) is October 15, 2002. According to the PAIR system Patent Term Adjustment History, attached as Exhibit C, the first action on the merits by the U.S. Patent and Trademark office in the present application was actually mailed on February 2, 2004. Thus, the difference between the 14 month date and the date of mailing of the first action on merits is a delay of 475 days, which is indicated by the PAIR system Patent Term Adjustment History, attached as Exhibit C.

Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delay pursuant to 37

Patent No. 6,871,150
Serial No. 09/931,145

Date Issued: March 22, 2005
Date Filed: August 15, 2001

C.F.R. § 1.704. The patent term adjustment should include the period of adjustment pursuant to 37 C.F.R. § 1.703(b) which is 219 days in the period from August 15, 2004 (the 3 year date) until March 22, 2005 (issue date). Thus, we believe that the patent term adjustment should be 694 days (475 days + 219 days) instead of the 475 days indicated on the issue notification, attached as Exhibit A.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for U.S. patent number 6,871,150 may not be correct. Accordingly, Applicant's Attorney respectfully requests the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact Applicant's Attorney via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,



Scott A. Timmerman
Registration No. 55,678
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,145	03/22/2005	6871150	6270/66	3165

46260 7590

03/02/2005

BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610



ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 475 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

APPLICANT(s) (up to 18 names are included below, see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Benedikt T. Huber, Victoria, CANADA;
Kurtulus H. Ozcetin, Sidney, CANADA;
Hal E. Etheridge, Victoria, CANADA;
Geoffrey T. Hyatt, Victoria, CANADA;
Simon H. Lightbody, Victoria, CANADA;
Piotr B. Przydatek, Victoria, CANADA;



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FEB 10 8 2005 FEB 08 2005

In re Application :
Huber, et al. :
Application No. 09/931,145 : PATENT TERM ADJUSTMENT
Filed: August 15, 2001 :
Dkt. No.: 6270/66 :

OFFICE OF PETITIONS

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT 37 C.F.R. § 1.705(b)," filed December 2, 2004.

Applicants argue that the Office failed to issue the patent within three years from the date the application was filed in accordance with 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.702(b) and request an additional adjustment of 52 days.

Applicants are advised that decision on the instant request for reconsideration of patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby held in abeyance subject to an issuance date being set by the Office of Patent Publications at which time the PTA will be routinely recalculated.

Applicants are further advised to submit a letter to the Office within two months of the issuance of the patent if, at the time of issuance of the patent, the appropriate adjustment under 37 C.F.R. § 1.703(a) has not been accorded.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 475 days.

The Office acknowledges receipt of the required fee of \$200.00 for an application for patent term adjustment.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

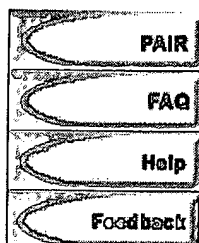
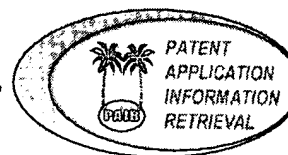
Karin Ferriter *Karin Ferriter*
Senior Legal Advisor *for*
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



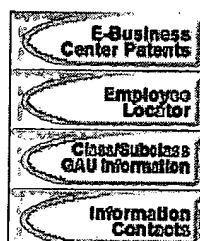
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PATENT APPLICATION INFORMATION RETRIEVAL



Other Links



Printer Friendly Version

Patent Term Adjustment (PTA) for application number: 09/931,145			
			Days
Filing or 371(c) Date:	08-15-2001	USPTO Delay (PTO):	475
Issue Date of Patent:	03-22-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	0
Post-Issue Petitions (days):	+0	Total PTA:	475
USPTO Adjustment (days):	+0	Explanation of Calculations	



















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<input checked="" type="checkbox"/> Assignments <input type="checkbox"/> Continuity Data <input type="checkbox"/> Display References <input type="checkbox"/> File History <input type="checkbox"/> Image File Wrapper <input type="checkbox"/> Maintenance Fees - Retrieve fees to pay	<input type="button" value="Search"/>
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Maintenance Fees Available: Mon-Fri 5:30 AM to Midnight, Sat-Sun-Hol. 7:30 AM to 8:00 PM E.T.

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
03-02-2005	PTA 36 Months		
03-22-2005	Patent Issue Date Used in PTA Calculation		
02-17-2005	Receipt into Pubs		
02-16-2005	Dispatch to FDC		
02-14-2005	Dispatch to FDC		
02-14-2005	Application Is Considered Ready for Issue		
12-02-2004	Issue Fee Payment Verified		
02-09-2005	Receipt into Pubs		
02-08-2005	Petition Decision - Dismissed		
12-02-2004	Petition Entered		
12-02-2004	Workflow incoming petition IFW		
12-02-2004	Issue Fee Payment Received		
11-08-2004	Mail Examiner's Amendment		
11-01-2004	Examiner's Amendment Communication		
11-01-2004	Correspondence Address Change		
10-29-2004	Receipt into Pubs		
10-24-2004	Correspondence Address Change		
10-22-2004	Receipt into Pubs		
10-21-2004	Workflow - File Sent to Contractor		
10-06-2004	Mail Notice of Allowance		

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10-06-2004	Mail Examiner's Amendment		
09-17-2004	Examiner Interview Summary Record (PTOL - 413)		
10-01-2004	Examiner's Amendment Communication		
09-23-2004	Issue Revision Completed		
09-20-2004	Notice of Allowance Data Verification Completed		
09-20-2004	Notice of Allowability		
09-13-2004	Date Forwarded to Examiner		
08-24-2004	Amendment after Final Rejection		
09-13-2004	Date Forwarded to Examiner		
08-24-2004	Amendment after Final Rejection		
08-24-2004	Workflow incoming amendment IFW		
07-08-2004	Mail Final Rejection (PTOL - 326)		
06-24-2004	Final Rejection		
04-22-2004	Date Forwarded to Examiner		
04-12-2004	Response after Non-Final Action		
04-12-2004	Workflow incoming amendment IFW		
02-27-2004	Information Disclosure Statement (IDS) Filed		
02-02-2004	Mail Non-Final Rejection	475	
12-10-2001	Reference capture on IDS		
12-10-2001	Information Disclosure Statement (IDS) Filed		
01-26-2004	Non-Final Rejection		
01-09-2004	IFW TSS Processing by Tech Center Complete		
01-09-2004	Reference capture on IDS		
08-25-2003	Information Disclosure Statement (IDS) Filed		
03-18-2002	Information Disclosure Statement (IDS) Filed		
12-31-2002	Preliminary Amendment		
12-17-2001	Preliminary Amendment		
05-27-2003	Information Disclosure Statement (IDS) Filed		
11-21-2002	Case Docketed to Examiner in GAU		
04-01-2002	Information Disclosure Statement (IDS) Filed		
12-03-2001	Information Disclosure Statement (IDS) Filed		
11-20-2001	Case Docketed to Examiner in GAU		
09-19-2001	Application Dispatched from OIPE		
09-18-2001	Correspondence Address Change		
08-23-2001	IFW Scan & PACR Auto Security Review		
08-15-2001	Initial Exam Team nn		

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**Director of the United States
Patent & Trademark Office
Washington, D.C. 20231**

Case No. 0270/66
Applicant Huber et al.

Dir Applicant: Benedikt T. Huber et al.

Serial No.

Wi Client/Matter: 6270/66

Plt Exp. Mail EL 500981488 US

Items Mailed: Appln. Transmittal (C.I.P.) (2pp. Filed in Dup.);
Patent Application (60 pp. Specification and 20 pp. of Drawings); Check
for \$1626; Assignment Recordation Cover Sheet (1p. 1p.); Executed
Assignment; Declaration, and Power Attorney; Check for \$40; and PTO
Reply Postcard

BRINKS HOFER GILSON & LIONE

By: Vincent J. Gnoffo, Reg. No. 44, 714

Date of Mailing: August 15, 2001

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09/931145



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